IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3098 OF 2003

1.M/s.Vicky Electronics & Anr...Petitioners

Versus

1. Pon Israel Jeba Kumar Wise & Anr.Respondents

Mr.M.D. Malkhare, for the Petitioner
Mr. R.S. Keluskar, for the Respondents

CORAM: F.I. REBELLO, J.
DATE : 6th September,2004

P.C.:

1. The Award of the Labour Court in Reference (IDA) No.759/98 dated 31st October, 2002 is the subject matter of the present challenge. The petition itself was presented on 8th October, 2003. The Labour Court has answered the reference in favour of the workmen by holding firstly that the termination is illegal and consequent reinstatement of the workmen with continuity of service from 31st May, 1991. However, back wages have been restricted to 50%. It is this Award which is the subject matter of the present challenge.

2. At the hearing of this petition on behalf of the petitioners their learned Counsel contends that the services were terminated only in the year 1991 and the workmen moved by way of conciliation during the year 1997. There is, therefore, gross delay and in these circumstances the reference ought to have been rejected. It is secondly contended that the petitioner had not terminated the services of the workmen. On the contrary the workmen abandoned the services and in these circumstances the finding of the Labour Court that there was illegal termination is not supported by the material on record.

3. The learned Labour Court based on the material has recorded a finding that the services of the Respodnent-workmen were terminated without holding any enquiry or following the due procedure of law. The contention of the petitioners was that there was abandonment of services by the respondents. If that be the case, the employer had to exercise the powers under the Standing Orders if available and that too after giving notice or an opportunity to the workmen. The learned Labour Court has recorded a finding that the services of the respondents were illegally terminated and thereafter rejected the contention of the employer. This is purely a finding of fact.

4. In so far as the ground of delay is concerned, on perusal of the award there is a finding recorded that the respondents-workmen had initiated proceedings as far back as on 6th June, 1991 and thereafter sent reminder on 3rd September, 1991. It is in these circumstances that the learned Labour Court has answered the issue against the petitioners. Even assuming for the moment that there was delay thereafter on the part of the workmen or on the part of the Conciliation Officer the Labour Court has not awarded full back wages, but awarded only 50% of the back wages.

5. Considering the above, in my opinion the impugned order does not suffer from any error of law apparent on the face of the record and consequently no interference called for. Writ Petition rejected.

(F.I. REBELLO, J.)